

**EXHIBIT 3**

**From:** "Cymrot, Mark" <BH/WASHINGTON DC/RECIPIENTS/MCYMROT>  
**Sent:** 3/20/2009 1:53:36 PM +00:00  
**To:** 'Richard Levin' <RLevin@cravath.com>  
**CC:** 'David Greenwald' <DGreenwald@cravath.com>; "Babinski, Laurie A." <lbabinski@bakerlaw.com>; 'Ronald Rolfe' <RRolfe@cravath.com>  
**Subject:** RE: Confidentiality Agreement  
:  
[Thanks](#)

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**From:** Richard Levin [mailto:RLevin@cravath.com]  
**Sent:** Thursday, March 19, 2009 9:36 PM  
**To:** Cymrot, Mark  
**Cc:** David Greenwald; Babinski, Laurie A.; Ronald Rolfe  
**Subject:** Re: Confidentiality Agreement

2:00 PM will be fine. Ron Rolfe and I will be at your office then.

"Cymrot, Mark" <MCymrot@bakerlaw.com>

03/19/2009 03:18 PM

To "Richard Levin" <RLevin@cravath.com>  
cc "Babinski, Laurie A." <lbabinski@bakerlaw.com>, "David Greenwald" <DGreenwald@cravath.com>, "Ronald Rolfe" <RRolfe@cravath.com>  
Subject Confidentiality Agreement

Rich: Here is the form of confidentiality agreement that the trustee has agreed to with other parties. As I explained, he does not want to enter into conflicting or different obligations and, therefore, will be reluctant to make changes. I understand, however, that you want the agreement to cover the meeting on Tuesday. Please provide us with your suggested changes and I will take it to the trustee for his approval.

Regards  
Mark

Mark A. Cymrot  
Baker & Hostetler, LLP  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
Tel: (202) 861-1677  
Fax: (202) 861-1783  
email: [mcymrot@bakerlaw.com](mailto:mcymrot@bakerlaw.com)

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destroy any hard copy (3) ensure that their contents are not disclosed or used.

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**From:** Richard Levin [mailto:RLevin@cravath.com]  
**Sent:** Wednesday, March 18, 2009 5:49 PM  
**To:** Cymrot, Mark  
**Cc:** Babinski, Laurie A.; David Greenwald; Ronald Rolfe  
**Subject:** Re: FW: Madoff: Your Correspondence to Optimal

Mark:

This will confirm both our telephone call this afternoon and a meeting at your office at 45 Rockefeller Plaza on next Tuesday, March 24, at 3:00 PM. In addition, you agreed to provide me a draft of a confidentiality agreement as soon as possible, and in any event sufficiently in advance of the meeting so that we can have a reasonable opportunity to negotiate and resolve its terms before the meeting.

I look forward to hearing from you on the agreement and to meeting you next week.

Best regards,  
Rich

Richard Levin  
Cravath, Swaine and Moore LLP  
Worldwide Plaza  
825 Eighth Avenue  
New York, NY 10019-7475  
T: (212)474-1978  
F: (212)474-3700  
E: rlevin@cravath.com

"Cymrot, Mark" <MCymrot@bakerlaw.com>

03/18/2009 04:38 PM

To <RLevin@cravath.com>  
cc "Babinski, Laurie A." <lbabinski@bakerlaw.com>  
Subject FW: Madoff: Your Correspondence to Optimal

Rich: I am responding to your email to David Sheehan. Please give me a call and we can discuss how to proceed.

Thanks

Mark A. Cymrot  
Baker & Hostetler, LLP  
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Washington, D.C. 20036  
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-----Original Message-----

From: Resnick, Lauren  
Sent: Wednesday, March 18, 2009 4:26 PM  
To: Cymrot, Mark  
Cc: Sheehan, David J.; Lucchesi, Thomas; Conley, Jeanine; Rodriguez, Alberto  
Subject: Fw: Madoff: Your Correspondence to Optimal  
Importance: High

Fyi. Mark, I believe this one is yours.

----- Original Message -----

From: Sheehan, David J.  
To: Resnick, Lauren; Lucchesi, Thomas  
Sent: Wed Mar 18 16:22:30 2009  
Subject: Fw: Madoff: Your Correspondence to Optimal

----- Original Message -----

From: Richard Levin <RLevin@cravath.com>  
To: Sheehan, David J.  
Cc: David Greenwald <DGreenwald@cravath.com>; Ronald Rolfe <RRolfe@cravath.com>  
Sent: Wed Mar 18 16:21:18 2009  
Subject: Madoff: Your Correspondence to Optimal

David:

After consultation with our clients, we believe that a meeting would be useful to discuss your communications of February 27. We may be able to make a proposal that would be of interest to the trustee. All discussions, of course, would be subject to FRE 408 and a further confidentiality agreement to the extent that the discussions were not technically within the scope of Rule 408.

Please let me know when it might convenient to meet.

Rich

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[attachment "Optimal\_Santander Confidentiality Agreement.pdf" deleted by Richard Levin/NYC/Cravath]

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